

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Docket No.: 04-CR-251-10 (KMW)

UNITED STATES OF AMERICA

vs.

JOSE SUAREZ,

Defendant.

**AFFIDAVIT OF COUNSEL IN SUPPORT OF MOTION
TO WITHDRAW FROM REPRESENTATION**

COMES NOW, Henry E. Marines counsel for Defendant with this affidavit pursuant to L.R. 1.4 in support of his motion to withdrawal from further representation in this matter and in support provides as follows:

1. Counsel was retained by the Defendant's family to represent the Defendant in the prosecution of his appeal in the Second Circuit Court of Appeals.
2. During the pendency of the appeal, the Government conceded that the Defendant may be eligible for resentencing in light of the Supreme Court's recent decision to grant Writ of Certiorari in the cases of *Abbott v. United States*, No. 09-479, and *Gould v. United States*, No. 09-7073.
3. Counsel entered into an agreed order with the Government, allowing the case to be remanded in order to permit the defendant to be resentenced should the Supreme Court determine that the questioned presently before the Court in *Abbott* and *Gould* warrant relief.
4. The Defendant disagrees with counsel on the manner in which the case should proceed and refuses to cooperate, nor communicate with counsel any further on the matter.
5. Counsel cannot provide adequate representation to the defendant at this stage due to the complete breakdown in communication that has occurred.
6. Counsel has attempted to resolve the differences with the Defendant, to no avail.

Counsel presents that the interest of justice will be better served if new counsel is appointed to represent the defendant in this matter.

Done this 28th day of April 2010

Respectfully submitted,

S/ Henry E. Marines

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